

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*Ninety-Eighth Legislature*

OF THE

STATE OF MAINE

VOLUME I

1957

DAILY KENNEBEC JOURNAL  
AUGUSTA, MAINE

**SENATE**

Thursday, April 18, 1957

Senate called to order by the President.

Prayer by Rev. Horace E. Colpitts of Augusta.

On motion by Mr. Hillman of Penobscot, Journal of yesterday read approved.

**Papers from the House  
Joint Order**

ORDERED, the Senate concurring, that Bill, "An Act Relating to Reciprocal Agreements Concerning Operation, Regulation and Taxation of Motor Vehicles." (H. P. 863) (L. D. 1226) be recalled from the Legislative Files to the House for the purpose of reconsideration. (H. P. 1053)

Which was read and passed in concurrence.

Bill, "An Act Relating to the Visible Indication of Elapsed Time on Parking Meters." (H. P. 361) (L. D. 491)

In Senate on April 16, Report B (ONTP) accepted in non-concurrence.

Comes from the House, that body having insisted on its former action whereby Report A (OTP as amended) was accepted and bill as amended passed to be engrossed, now asks for a Committee of Conference.

In the Senate, on motion by Mr. Butler of Franklin, the Senate voted to insist and join; and the Chair appointed as Senate conferees on the Committee of Conference, Senators Butler of Franklin, Woodcock of Penobscot and Martin of Kennebec.

**House Committee Reports**

The Committee on Inland Fisheries and Game on Bill, "An Act Prohibiting Certain Implements and Devices in Certain Waters in Washington County." (H. P. 769) (L. D. 1102) reported that same be referred to the Committee on Sea and Shore Fisheries.

Which report was read and accepted in concurrence, and the bill was referred to the Committee on Sea and Shore Fisheries in concurrence.

**Ought Not to Pass**

The Committee on Business Legislation on Bill, "An Act Relating to Rate of Interest Charged by Licensed Small Loan Agencies." (H. P. 593) (L. D. 842) reported that the same Ought not to pass.

Comes from the House, Bill substituted for Report and passed to be engrossed.

In the Senate, on motion by Mr. Briggs of Aroostook, the bill was laid upon the table pending consideration of the report.

The Committee on Taxation on Bill, "An Act Relating to Excise Taxes on Motor Vehicles of Those Who Reside on Veterans Administration Facility, Togus." (H. P. 925) (L. D. 1314) reported that the same Ought not to pass.

Comes from House, Bill substituted for Report, House Amendment A adopted, and Bill recommitted to Committee on Taxation.

In the Senate, the bill was recommitted to the Committee on Taxation in concurrence.

**Leave to Withdraw**

The Committee on Business Legislation on Bill, "An Act Relating to Benefits on Lives of Children Under Foreign Fraternal Beneficiary Association Law." (H. P. 929) (L. D. 1322) reported that the same be granted Leave to Withdraw as covered by Other Legislation.

The same Committee on Bill, "An Act Relating to Qualifications for Membership in Foreign Fraternal Beneficiary Associations." (H. P. 930) (L. D. 1323) reported that the same be granted Leave to Withdraw as covered by other Legislation.

The same Committee on Bill, "An Act Relating to Funds of Foreign Fraternal Beneficiary Associations." (H. P. 931) (L. D. 1324) reported that the same be granted Leave to Withdraw as covered by Other Legislation.

Which reports were severally read and accepted in concurrence.

**Ought to Pass**

The Committee on Judiciary on Bill, "An Act Relating to Costs in Actions on Small Claims." (H. P.

943) (L. D. 1336) reported that the same Ought to pass

The Committee on Public Utilities on Bill, "An Act Relating to Assessments against Lots Benefited by Waterville Sewerage District." (H. P. 481) (L. D. 687) reported that the same Ought to pass

The same Committee on Bill, "An Act to Incorporate the Topsham Sewer District." (H. P. 569) (L. D. 879) reported that the same Ought to pass

The Committee on State Government on Bill, "An Act Creating a Highway Safety Committee." (H. P. 974) (L. D. 1374) reported that the same Ought to pass

The Committee on Taxation on Bill, "An Act Providing for a Tax on Quahogs." (H. P. 861) (L. D. 1224) reported that the same Ought to pass

The Committee on Towns and Counties on Bill, "An Act Increasing Compensation of Boards of Registration in Cities." (H. P. 645) (L. D. 912) reported that the same Ought to pass

Which reports were severally read and accepted in concurrence, the bills read once and tomorrow assigned for second reading.

#### Ought to Pass—N. D.

The Committee on Public Utilities on Bill, "An Act Clarifying Procedure Relating to Reconstructing or Altering Railroad Crossings." (H. P. 433) (L. D. 609) reported the same in New Draft (H. P. 1049) (L. D. 1492) Under the Same Title, and that it Ought to pass

Which report was read and accepted in concurrence, the bill in New Draft read once and tomorrow assigned for second reading.

#### Report A—OTP Report B—ONTP

Five members of the Committee on Retirements and Pensions on "Resolve Providing for an Increase in State Pension for Leeman Grant of Columbia Falls." (H. P. 435) (L. D. 611) reported (Report A) that the same Ought to pass

(Signed)

Senator

DUNN of Kennebec

#### Representatives

WARREN of Saco

CALL of Cumberland

JEWELL of Monticello

DESMARAIS of Sanford

Five Members of the same Committee on the same subject matter, reported (Report B) that the same Ought not to pass

(Signed)

Senators:

DAVIS of Cumberland

LOW of Knox

#### Representatives:

LINDSAY of Brewer

FLYNN of South Berwick

SHAW of Bingham

Comes from the House, Report A accepted and the resolve passed to be engrossed.

In the Senate, on motion by Mrs. Lord of Cumberland, the resolve and accompanying papers were laid upon the table pending consideration of the reports.

#### Senate Committee Reports Leave to Withdraw

Mr. Davis from the Committee on Retirements and Pensions on Bill, "An Act Relating to Employment Status of Certain National Guard Employees Under Personnel Law." (S. P. 400) (L. D. 1096) reported that the same be granted Leave to Withdraw.

Mr. Low from the same Committee on "Resolve Providing for State Pension for Aurore Auclair of Lewiston." (S. P. 410) (L. D. 1143) reported that the same be granted Leave to Withdraw.

Which reports were read and accepted.

Sent down for concurrence.

#### Ought Not to Pass

Mr. Dunn from the Committee on Retirements and Pensions on Bill, "An Act Relating to Service Retirement Credits for Teachers Employed by Veterans Administration." (S. P. 456) (L. D. 1304) reported that the same Ought Not to pass.

Mr. Cole from the Committee on Transportation on Bill, "An Act Relating to License Plates for Motor Vehicle Owners who are Sheriffs and Deputy Sheriffs." (S. P. 188) (L. D. 467) reported that the same Ought not to pass.

Mr. Hall from the same Committee on Bill, "An Act Relating to Instruction Permits to Drive Motor Vehicles." (S. P. 91) (L. D. 201) reported that the same Ought not to pass.

Which reports were severally read and accepted.

Sent down for concurrence.

#### Ought to Pass

Mr. Butler from the Committee on Natural Resources on Bill, "An Act Revising the Law Relating to Peaceful Uses of Atomic Energy." (S. P. 478) (L. D. 1383) reported that the same Ought to pass.

Which report was read and accepted, the bill read once and tomorrow assigned for second reading.

#### Ought to Pass — N. D.

Mr. Rogerson from the Committee on Transportation on Bill, "An Act Relating to Definition of Way Under Motor Vehicle Law." (S. P. 140) (L. D. 272) reported same in New Draft (S. P. 530) (L. D. 1497) with New Title: "An Act Relating to Crimes Committed on the Maine Turnpike." and that it Ought to pass.

Which report was read and accepted, the bill in New Draft read once and tomorrow assigned for second reading.

#### Ought to Pass — as amended

Mr. Woodcock from the Committee on Judiciary on Bill, "An Act Creating an Interstate Compact on Mental Health." (S. P. 127) (L. D. 340) reported that the same Ought to pass as Amended by Committee Amendment A.

The same Senator from the same Committee on Bill, "An Act Relating to Joint Bank Accounts and Joint Building and Loan Shares." (S. P. 145) (L. D. 343) reported that the same Ought to pass as Amended by Committee Amendment A.

Mr. Carpenter from the Committee on Liquor Control on Bill, "An Act to Clarify Certain Liquor Laws." (S. P. 409) (L. D. 1142) reported that the same Ought to pass with Committee Amendment A.

Which reports were severally read and accepted and the bills read

once. Committee Amendments A were read and adopted, and the bills as so amended were tomorrow assigned for second reading.

**Majority — OTP in N. D.**  
**Minority — ONTP**

The Majority of the Committee on Labor on Bill, "An Act Relating to Equipment of Rail Track Motorcars Used by Railroad Transport Employees." (S. P. 283) (L. D. 742) reported same in New Draft (S. P. 531) (L. D. 1498), Same Title, and that it Ought to pass.

(Signed)

Senators:

CURTIS of Cumberland  
ST. PIERRE of Androscoggin

Representatives:

SMITH of Portland  
KARKOS of Lisbon  
WINCHENPAW of Friendship  
EMMONS of Kennebunk  
LETOURNEAU of Sanford

The Minority of the same Committee on the same subject matter, reported that the bill Ought not to pass.

(Signed)

Senator:

HILLMAN of Penobscot

Representatives:

ROSS of Bath  
HANSCOMB of South Portland

Mr. PIKE of Oxford: Mr. President, I move that the Senate accept the ought to pass report of the Committee.

Thereupon, on motion by Mr. Fournier of York, the bill and accompanying papers were laid upon the table pending motion by Mr. Pike of Oxford that the Senate accept the Ought to pass Majority report.

**Majority — OTP in N. D.**  
**Minority — ONTP**

The Majority of the Committee on Transportation on recommended Bill, "An Act Relating to Weight Tolerances for Motor Vehicles Carrying Firewood, Pulpwood, Logs or Bolts." (S. P. 90) (L. D. 200) reported the same in New Draft (S. P. 529) (L.

D. 1496) with the same title, and that it Ought to pass.

(Signed)

Senators:

HALL of York  
ROGERSON of Aroostook

Representatives:

ALLEN of Chelsea  
STILPHEN of Rockland  
KELLY of Rumford  
JACQUES of Lewiston

The Minority of the same Committee on the same subject matter, reported that the bill Ought not to pass.

(Signed)

Senator

COLE of Waldo

Representatives:

TOTMAN of Bangor  
BEYER of Cape Elizabeth  
HERSEY of Fort Fairfield

On motion by Mr. Cole of Waldo, the bill and accompanying papers were laid upon the table pending consideration of the reports and especially assigned for Thursday, April 25.

**Majority—Ought Not to Pass**

**Minority—Ought to pass**

The Majority of the Committee on Transportation on Bill, "An Act Relating to Registration Fees for Farm Trucks." (S. P. 349) (L. D. 929) reported that the same Ought not to pass

(Signed)

Senators:

HALL of York  
COLE of Waldo

Representatives:

BEYER of Cape Elizabeth  
JACQUES of Lewiston  
KELLY of Rumford  
TOTMAN of Bangor

The Minority of the same Committee on the same subject matter, reported that the bill Ought to pass

(Signed)

Senator:

ROGERSON of Aroostook

Representatives:

ALLEN of Chelsea  
HERSEY of Fort Fairfield  
STILPHEN of Rockland

On motion by Mr. Reed of Aroostook, the bill and accompanying papers were laid upon the table pending consideration of the reports.

### Second Readers

The Committee on Bills in the Second Reading reported the following bills and resolves:

### House

Bill, "An Act to Incorporate Bowdoinham Water District." (H. P. 384) (L. D. 515)

Bill, "An Act Relating to Boarding Homes for the Aged." (H. P. 789) (L. D. 1122)

Bill, "An Act Relating to Time of Application for Refunds of Gasoline Tax." (H. P. 913) (L. D. 1299)

Bill, "An Act Relating to Walks and Handrails on Railroad Bridges." (H. P. 1047) (L. D. 1489)

"Resolve to Reimburse Town of Stetson for Aid to Carlton Johnson and Family." (H. P. 737) (L. D. 1041)

Which were severally read a second time and passed to be engrossed in concurrence.

### House—as amended

Bill, "An Act Relating to Definitions of Narcotic Drugs." (H. P. 13) (L. D. 12)

Bill, "An Act Amending the Charter of the Limerick Sewerage District." (H. P. 766) (L. D. 1048)

Bill, "An Act Relating to Time of Annual Town Meeting in Town of Mechanic Falls." (H. P. 988) (L. D. 1376)

Bill, "An Act Relating to Portland University." (H. P. 1026) (L. D. 1458)

(On motion by Mrs. Lord of Cumberland, tabled pending passage to be engrossed.)

"Resolve to Reimburse the Town of Enfield for Certain Pauper Claims." (H. P. 155) (L. D. 203)

"Resolve to Reimburse the Town of Waldoboro for Aid Extended to Leverett Carter." (H. P. 202) (L. D. 289)

"Resolve in Favor of Town of Masardis, Aroostook County." (H. P. 408) (L. D. 585)

"Resolve Reimbursing Town of Bristol for Certain Pauper Claims." (H. P. 638) (L. D. 905)

Which were severally read a second time and passed to be engrossed as amended in concurrence.

**Senate—as Amended**

Bill, "An Act Relating to the Appointment of a Temporary Deputy Commissioner." (S. P. 375) (L. D. 998)

Bill, "An Act Relating to Mortgage Loans by Savings Banks." (S. P. 406) (L. D. 1139)

Bill, "An Act Prohibiting State Employees from Participating in State Politics." (S. P. 467) (L. D. 1347)

Bill, "An Act to Incorporate the North Yarmouth Water District." (S. P. 472) (L. D. 1351)

Which were severally read a second time and passed to be engrossed as amended.

Sent down for concurrence.

**Enactors**

**The Committee on Engrossed Bills reported as truly and strictly Engrossed the following Bills and Resolves:**

Bill, "An Act to Provide Fire Protection for Township No. 17, Range 5, Aroostook County." (H. P. 81) (L. D. 107)

Bill, "An Act Increasing the Salary of the County Attorney of York County." (H. P. 192) (L. D. 255)

(On motion by Mr. Wyman of Washington, tabled pending passage to be enacted.)

Bill, "An Act Relating to Certain Expenses of Town Assessors." (H. P. 194) (L. D. 257)

Bill, "An Act Relating to Fees of Town Clerks." (H. P. 248) (L. D. 309)

Bill, "An Act Relating to Statement of Contributions and Expenses by Certain Municipal Candidates." (H. P. 250) (L. D. 311)

Bill, "An Act Repealing Obsolete Laws Relating to Industrial or Mechanical Drawing and Manual Training." (H. P. 267) (L. D. 363)

Bill, "An Act Increasing Salary of Recorder of Eastport Municipal Court." (H. P. 395) (L. D. 514)

(On motion by Mr. Wyman of Washington, tabled pending passage to be enacted.)

Bill, "An Act Relating to Working on Trees." (H. P. 479) (L. D. 671)

Bill, "An Act Relating to Elections in Penobscot and Passamaquoddy Tribes of Indians." (H. P. 559) (L. D. 786)

Bill, "An Act Relating to Town Representation on Community School Committee." (H. P. 683) (L. D. 972)

(On motion by Mr. Butler of Franklin, tabled pending passage to be enacted.)

Bill, "An Act Relating to Dumping Rubbish and Bottles on Highways from Motor Vehicles." (H. P. 709) (L. D. 1015)

Bill, "An Act Relating to Suspension of Penalties Pending Appeal of Order of Water Improvement Commission." (H. P. 722) (L. D. 1026)

Bill, "An Act Relating to Furnishing Forest Tree Seedlings by Forest Commissioner." (H. P. 787) (L. D. 1120)

Bill, "An Act Relating to Transfer of Public Assistance Recipients Between States." (H. P. 789) (L. D. 1130)

Bill, "An Act Permitting Caucus for Penobscot Indians." (H. P. 888) (L. D. 1256)

Bill, "An Act Relating to Pledging Securities by Banking Institutions in which State Funds are Deposited." (H. P. 893) (L. D. 1279)

(On motion by Mr. Butler of Franklin, tabled pending passage to be enacted.)

Bill, "An Act Relating to Income from Sale of Timber on Indian Township." (H. P. 962) (L. D. 1361)

Bill, "An Act Defining Adult Child in Old Age Assistance, Aid to the Blind and Aid to the Disabled." (H. P. 976) (L. D. 1375)

(On motion by Mr. Sinclair of Somerset, tabled pending passage to be enacted.)

Bill, "An Act Relating to County or Municipal Capital Reserve Funds." (S. P. 229) (L. D. 572)

Bill, "An Act to Permit Blanket Accident and Sickness Insurance for Newsboys, Sport Teams and Campers." (S. P. 405) (L. D. 1138)

Bill, "An Act Relating to Eligibility for Old Age Assistance." (S. P. 414) (L. D. 1147)

(On motion by Mr. Sinclair of Somerset, tabled pending passage to be enacted.)

Bill, "An Act Relating to Time for Accounting for Fees by Registers of Probate." (S. P. 518) (L. D. 1476)

Resolve, Authorizing Use of Passamaquoddy Trust Funds for Housing. (H. P. 961) (L. D. 1360)

Resolve, Authorizing Henry L. Barker to Pay Certain Moneys to the Department of Health and Welfare. (H. P. 1041) (L. D. 1474)

Resolve, in Favor of Francis J. Arnold of Providence, Rhode Island. (S. P. 191) (L. D. 537)

(On motion by Mr. Sinclair of Somerset, tabled pending final passage.)

Which bills were Passed to Be Enacted and the Resolves Finally Passed.

#### Emergency Measure

"Resolve, Authorizing Department of Inland Fisheries and Game to Acquire Certain Lands and Water Rights in the Towns of Pembroke and Charlotte." (S. P. 373) (L. D. 996)

Which resolve, being an emergency measure, and having received the affirmative vote of 28 members of the Senate, and one opposed was finally passed.

#### Orders of the Day

The President laid before the Senate the first tabled and especially assigned matter being Senate Report ought not to pass from the Committee on Highways on bill, "An Act Relating to Cost of Relocating Facilities in Federal-Aid Interstate Highway Projects." (S. P. 385) (L. D. 1081); tabled by the Senator from Piscataquis, Senator Parker on April 16 pending consideration of the report.

Mr. PARKER of Piscataquis: Mr. President and members of the Senate, it is not my purpose to debate this bill at any great length. I think we should attempt though, to try and acquaint the members of this branch with the actual principle involved.

First I certainly hope that every member here is familiar with the bill, L. D. 1081. You will note that it is an act relating to the cost of relocating facilities in federal aid interstate highway projects. As Chairman of the Highway Committee, I think I should attempt to express their opinion when they voted unanimously ought not to pass on this bill. I am sure you are all familiar with the makeup of that committee.

They are from all walks of life, and I think we should not treat too lightly a decision from a committee that is unanimous in opposing a bill that comes before it.

At the conclusion of my brief remarks, I shall move that the report of the committee be accepted. I think the principle involved here is very simple. Do we feel that the purchasers of the product involved and distributed by a utility should pay for relocating the power lines, sewer systems, water systems or whatever that utility produces, or services they perform, or should the purchasers of gas, registrations and operators' licenses in the State of Maine pay for the relocations of those facilities. I think that is the whole question that we have to discuss here this morning and it resolves itself in my opinion to just that simple statement.

The big question of course, and the principal reason I believe why this bill was presented at this legislature is because of the fact that under this interstate, these interstate projects, it will be paid for ninety per cent, by the federal government under the federal act of 1956. However, don't forget for a moment that you and I as taxpayers are contributing to the ninety per cent also. Those in favor of this bill will tell you that its passage is something that will only affect this term of the legislature and that we as members of this legislature can only approve or disapprove of bills that affect this legislature. That may be true but nevertheless I do not believe any of us believe that over a period of years if this bill passes, we are not going to have to increase the different systems that we build here in the State of Maine to include the principal involved here, in other words that all roads eventually may have to take care, out of highway funds, of the cost of relocation of public utility facilities.

The committee in presenting the ought not to pass report certainly considered every angle, and, Mr. President, I move that the report of the committee, ought not to pass, be accepted.

Mr. MARTIN of Kennebec: Mr. President and members of the Senate, this bill, if you have read it and I am sure all of you have, has



to deal with the relocating of utility facilities on the interstate highway system; not on any other system. The interstate highway system as you know, is that highway that begins at Kittery, and some day we all hope will go as far north as Aroostook.

I respect the judgment of the Senator from Piscataquis, Senator Parker and I know the long hours of service he has given to the highways and the citizens of this state. I know of his devotion to his duty. Today I must disagree with him and with the decision of his committee. As chairman of the Public Utilities Committee I have had hearings which have led me to believe that a bill such as this if it were not passed would have a great effect upon the rate paying by consumers of public utility services. I am told that I am joined in that opinion by the Chairman of the Public Utilities Commission.

Senator Parker has been most fair in his arguments. It is true at the present time the utilities pay for relocation. This bill would propose that the state pay for the changes. I would point out to you that if the utilities pay for those changes, it must necessarily be passed on to the people who use the interstate highway system and those people will include many, many out of state citizens.

This bill as I have pointed out is only applicable to the interstate highway system and under that system the federal government has recognized that there might be this problem, and funds are available on the ninety-ten basis.

I have some figures here that the cost of this for the biennium would be \$250,000 of which the state would pay \$25,000 if this bill passes. I feel that the state highway system can well afford to absorb the \$25,000 rather than to have the utility rate payers absorb the \$250,000. I do not believe that the passage of this bill will slow down or interfere in any way with the progress of the Maine highways and the interstate system and I certainly would not want the bill to pass if I thought it did. The Senator from Piscataquis, Senator Parker has mentioned about opening a wedge. I for one

will continue to have the utmost confidence in legislatures that come here after we depart. Therefore I feel that I cannot support the motion of the Senator from Piscataquis, Senator Parker, and I hope it does not prevail.

Mr. CURTIS of Cumberland: Mr. President and members of the Senate I rise in support of the Senator from Kennebec, Senator Martin who has very ably presented the position of those who feel the passage of this measure would be in the best interest of the people of our state. I would like to point out to you a specific problem as applied to this highway and the effect that it has had on the Portland Water District. In the March 1955 copy of the Maine Water Utilities Association Journal, the Portland Water District during 1954, this was the copy of 1954, listed various rebuilding that the water district had to put in because of relocation of highways. They spent \$92,704 for relocation of facilities because of highways, and \$82,716 because of the turnpike. This relocation was made by the Portland Water District at the request of the State Highway Department and the turnpike. Now, on Warren Avenue—some of you may be familiar with it in Portland, the district has \$26,000 presently invested to give the same service which previously was furnished by the \$4,400 spent in 1915. There was \$175,000 cash expenditure that year for two relocation projects, the highway and the turnpike construction. The only way the water district could afford to do that was to float a bond issue and so it means it is necessary for the people of Portland to pay fixed charges on the bond issue which was subsequently sold.

Now this overhead of interest charges sinking fund and depreciation on this type of investment amounts to a little better than 5 per cent a year. Therefore each year the rate payers in Portland are paying approximately \$8,700 more because of this building needed to relocate facilities which were already supplying the residents of that area.

Now it happened that in the twelve month period ending March 31, 1957 this year, the Portland Water District had a gross revenue of \$1,217,-

000 but it ended the year after paying off all its expenses with a loss of \$1,654 so you can see that the extra overhead charges for such reconstruction on its property in 1953, 54 and 55 contributed to this deficit and it makes it very hard for the district.

These are unusual circumstances. They are not in normal operation. We decide that we want an interstate highway, the highway commission lays out the lines and then it goes through. The water district has nothing whatsoever to say about it except that it does have to relocate those facilities. I think we have to ask ourselves a question. Why should the Portland Water District or any water district or utility in the state as the highway goes up and down the state, in this case why should the Portland Water District spend \$82,000 to accommodate a thru-way for which the ratepayers of Portland have to pay approximately \$4,100 in fixed charges? I think that is a pretty good question.

It has been said that this is the opening wedge and I am inclined to feel that we must never look at legislation that way if it is needed and just. An opening wedge to more justice perhaps but I will leave it with the wisdom of succeeding legislatures and legislators to decide whether or not the wedge should be widened or narrowed. I feel in this particular case we have an injustice which should be remedied and I would like to quote very briefly from the Press Herald of April 4, on page 8 which says:

"The Highway Commission is neither a proponent nor an opponent said William H. Bradford, SHC right of way engineer.

"Passage of the bill would not mean a decrease in the amount of federal funds available to Maine for actual road construction, said an SHC statement read by Bradford. Federal allotments will be based on the estimated cost of projects and if authorized, moving of utility lines would be included.

"Since much of the new highway will be on new location, most moving of utility lines will be on land already owned by the utilities, the commission said. Reimbursement of

the companies by the state in such cases is required now."

And so I would point out that this applies only to interstate highways which does benefit all of the citizens of the state and not just one locality and so it seems eminently fair to me that where the federal government has recognized this problem and is willing to step forward with ninety per cent of the funds, that we should take advantage of it and I concur with the Senator from Kennebec, Senator Martin in opposing the motion.

Mr. LESSARD of Androscoggin: Mr. President, I rise in opposition to the motion of the Senator from Piscataquis, Senator Parker. I find it hard to distinguish between the roll of a taxpayer, a highway user and a utility ratepayer — they are all citizens of Maine. In other words a tax payer is a rate payer and also a user of the highways.

Automobiles and utility services seem to be common to everyone; in other words, we pay one way or the other. If that is true, and I think it is a fair statement, then it looks as though the ratepayers, the citizen of Maine who is also a taxpayer and also a highway user, is going to pay one hundred per cent because it is going to be placed on his rates. If this bill passes he will pay ten per cent.

Now the Senator from Piscataquis, Senator Parker, stated that we are eventually, as federal taxpayers, going to pay for this, and that is quite true. If before us was a bill which would give us a choice of whether or not we would have to contribute to the federal program and we were allowed to vote on that proposition, my position would be different. Perhaps if we should vote here today and say we are not in favor of this and therefore we as citizens of Maine will be given an exemption under our federal income tax when we want to contribute to it, that would be one thing. Perhaps it would be just and sound to say we want to stand alone and want to be rugged individualists. However, we have no choice in the matter, and every one of us who pays our income tax is going to contribute his share to this same program. If we do not take advantage of it we

are going to find our tax dollar will be taken over by other states who will take advantage of it. So, if we are going to pay for it, why do we not try to get some of it back for our utility ratepayers who are also taxpayers?

As far as precedent is concerned, I am not afraid of precedent. If we did not set precedents I am sure we would soon become very stagnant. I too share the views of the Senator from Kennebec, Senator Martin; I have confidence in our legislatures to come, and I am sure they will not allow state highway funds to be taken over too much by the utilities.

Mr. DAVIS of Cumberland: Mr. President and members of the Senate: I rise in opposition to the motion of the Senator from Piscataquis, Senator Parker. As an officer of a small water company for twenty years or more, I can realize full well what a problem a small utility might be faced with if involved in a situation of this kind through no fault of its own. I think the end result might very well be that it would be forced out of business, or we would have an exorbitant rate forced upon the consumer. I hope that the motion of the Senator from Piscataquis, Senator Parker, will not prevail.

Mr. SINCLAIR of Somerset: Mr. President and members of the Senate: I have consistently opposed this type of legislation during the last few sessions of the legislature because I felt it was an opening wedge. However, I am a little bit confused this morning, and I would like to ask a question through the Chair. I think probably the Senator from Piscataquis, Senator Parker, or the Senator from Kennebec, Senator Martin, might be able to answer it. The question is this: Is the 90 per cent that the federal government is willing to pay for the relocation of these utility services contingent upon the fact that the State must contribute 10 per cent, or will the federal government contribute this 90 per cent toward the cost of relocating these utilities if the utility companies paid the 10 per cent?

The PRESIDENT: The Senator from Kennebec, Senator Martin, and the Senator from Piscataquis, Senator Parker, have heard the ques-

tion and they may answer if they wish.

Mr. PARKER of Piscataquis: Mr. President and members of the Senate: I thought that our committee gave this consideration from every angle, that we had considered it from every angle, but I must confess that this one has got me stumped.

The PRESIDENT: Would the Senator from Piscataquis like to have the Senate recess for one moment, the Chair noting in the Senate Chamber an Assistant Attorney General whom I am sure could answer your question very promptly.

Mr. PARKER: I think that would be wise, Mr. President.

The PRESIDENT: The Senate may be at ease.

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#### At Ease

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Called to order by the President.

Mr. PARKER of Piscataquis: Mr. President and members of the Senate: I think we have the answer to the question. Under the federal act it is necessary for the state to pay the whole 100 per cent of construction, and they in turn would be reimbursed 90 per cent from the federal treasury.

Mr. CHARLES of Cumberland: Mr. President and members of the Senate: I too want to stand in opposing the motion of the Senator from Piscataquis, Senator Parker.

One thing that was said struck me, and that was the comment which was made: Should the highway users pay for relocating utilities? You could also say: Should users of telephones, water and electricity be forced to pay for something used for highways? I feel it is very unfair to impose this on the utility, and it would only mean an increase in rates. We feel that there is a difference between utility users and road users and that those who use the roads should pay for them.

Mr. COLE of Waldo: Mr. President and members of the Senate, I stand in support of my colleague the Senator from Piscataquis, Senator Parker. I think he has stated the views of the committee very well and by the opposition that seems to have been presented to us this morning, I think he needs

moral support. During the hearing which was supported very strongly of course by the utilities, one fact was not brought out, and that was this: that the utilities do have the permission to build and maintain their facilities along the present highways. It seemed to me that the present highways are indeed quite beneficial to the utilities by the reason of the fact that this right of way is maintained for twelve months of the year, through thick and thin, for the maintenance of these facilities. Let's go back to the beginning of the federal highway bill which allowed that the utilities could get reimbursement from the federal government on a ninety-per cent basis. The committee members felt that this fact here which was one of the committee reports in Congress was quite vital, it certainly was to my decision, and it was this: "All highway users were very bitterly opposed to Section 111 of the federal highway bill. Every state supreme court that has ruled on this question has held that the cost of relocating utility facilities can not be borne by the state or their political subdivisions. That explains why the utility lobbyists so actively supported the relocation provision. It does for the utilities what they could not do, or not get the state to do for them. With this provision written into the federal law consider what a state of helplessness the state will be plunged into. The powerful utility monopolies, waving a copy of the Federal law, will put such pressure on the states that few will be able to resist. How can they, in face of a Federal enactment inviting the states to come and get it for the utilities with no questions asked? Let us not pretend that we are just leaving it up to the states."

The Senator from Kennebec, Senator Martin, has stated that the cost of this federal bill would be in the vicinity of \$250,000 with a state cost of \$25,000. Where is this cost coming from? Is it not coming directly from the highway user, the highway taxpayer, the trucker, all those in fact, who are using the highways? May I ask this question. Why should the highway users of the State of Maine who contribute to the whole program be penalized by sub-

sidizing utilities for relocation of their facilities? It seems to me that it is very unjust and I also would bring up the point that to my mind it may be unconstitutional and had the committee in its wisdom seen fit to have presented a divided report, I think it would have been wise to present these facts to the supreme court for a test.

Due to the fact that the committee was unanimous in its opinion I did not feel that we should consult the supreme court on the constitutionality. I am very much concerned along this line when we use highway money for other purposes than what the constitution sets up. I certainly hope that the motion of the Senator from Piscataquis, Senator Parker does prevail.

Mr. DOW of Lincoln: Mr. President and members of the Senate, being one who is easily confused over these federal deals I also would like to ask a question. If other states accept this ninety per cent federal proposal, is it not possible that the taxpayers in Maine would be helping to pay for relocation in other states while at the same time paying for all of their own costs if this motion prevails?

Mr. BOUCHER of Androscoggin: Mr. President and members of the Senate, I rise to oppose the motion of my good friend the Senator from Piscataquis, Senator Parker. I feel just the opposite to what he does. I feel that the ninety per cent paid by the government toward the relocation of the public utilities in these roadways should be paid by those who use the roads. He pointed out that we might have to pay more taxes for gas, automobiles, trucks, tires and other incidentals connected with motoring but isn't it just to make persons who travel the roads pay for them, rather than have the public utilities bear the cost and ask for increases in rates and place it on to the persons who don't own a motor vehicle. Persons who don't own a motor vehicle, if the utilities' rates are increased will have to pay for the motorist. I think that is unfair. Let the man who gets the benefits of these things pay for them. I don't think we should burden the persons who use water, electricity, gas, or any of

those public utilities and ask them to pay for relocation of these services.

Mr. BUTLER of Franklin: Mr. President, I rise in opposition to the motion of the Senator from Piscataquis, Senator Parker, supported by Senator Cole of Waldo. I do that not with trepidation because it is very evident that the general desire is to accept the proposition which the government is extending to us. Here is an instance where if this can be permitted—and the bill only calls for it on the interstate system, that is if we accept the proposition—we pay money to the federal government, and if we do not take advantage of this and the federal government says it must be added to the costs we are tempted to do it.

Now the Senator from Waldo, Senator Cole, has brought up the question of constitutionality, which is a grave question, and the mere fact that we should act upon this thing would still raise a serious question and perhaps even confuse the issue with the federal government as to whether we were attempting to “pad” the expenses, and they in turn would query the amount which was being submitted to them for their costs.

Now, as I understand it, the committee have felt that in order to get the greatest amount of highways and roads for the fund we should now, as we have in the past, keep our eye on the ball and keep our costs in line with what the Constitution authorizes to be included in these costs. Today we are expressing a feeling for the greatest good for the greatest number, but if we are going to do that greatest good for the greatest number then let us do it in a way which will meet with the approval of all the authorities.

I certainly trust that before this bill is finally enacted, as I feel quite confident that the motion for “Ought not to pass” will not prevail, that before we do enact it that we give serious consideration to the suggestion as to the constitutionality and get an opinion from the court as to the action which we take. I trust that that can be done, but I do hope that the motion of

the Senator from Piscataquis, Senator Parker, will not prevail.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Piscataquis, Senator Parker, that the Senate accept the ought not to pass report.

Mr. PARKER: Mr. President, I ask for a division.

A division of the Senate was had.

Four having voted in the affirmative and twenty-four opposed, the motion did not prevail.

Thereupon, on motion by Mr. Parker of Piscataquis, the bill was substituted for the ought not to pass report, given its first reading and tomorrow assigned for second reading.

Mr. Sinclair of Somerset presented the following order and moved its passage:

ORDERED:

WHEREAS, the legislative committee clerks' room has been graced with a beautiful Easter lily, the gift of Senator and Mrs. Miles F. Carpenter, and

WHEREAS the legislative committee clerks' room has been beautified by this very gracious gift,

The legislative committee clerks have met in executive session and having pondered the solemn occasion did vote and unanimously elect Hon. Miles F. Carpenter of Somerset, the most popular, the most handsome Senator of the 98th session.

The PRESIDENT: Before the motion is put, the Chair would ask evidence of the fact by asking that all committee clerks in the Senate Chamber rise.

This was done amid the applause of the Senate.

The Order received a passage.

On motion by Mr. Woodcock of Penobscot, the Senate voted to take from the table bill, “An Act Empowering the Supreme Judicial Court of Maine to Prescribe Rules.” (S. P. 178) (L. D. 457) tabled by that Senator on April 9 pending passage to be enacted, and on further motion by the same Senator, the bill was passed to be enacted.

On motion by Mr. Davis of Cumberland, the Senate voted to take from the table the 28th tabled and

unassigned matter, (S. P. 440) (L. D. 1237) Senate Report Ought not to pass from the Committee on Natural Resources on Bill, "An Act Authorizing Forest Commissioner to Convey Interest of the State in Jaquish Island, Cumberland County," tabled by that Senator on April 9th, pending acceptance of report.

Mr. DAVIS: Mr. President, I now move that the bill be substituted for the report.

The PRESIDENT: The Senator from Cumberland, Senator Davis, moves that the bill be substituted for the "Ought not to pass" report of the committee. Is this the pleasure of the Senate?

Mr. BUTLER of Franklin: Mr. President and members of the Senate: When we come to substitute a bill in favor of the report—I don't know as this is just the day when I should speak, because we have already overruled one and most likely will overrule this one—but let us see what has happened.

It is admitted to be the policy of this legislature—no, I can't say this legislature—but it has been the policy of past legislatures to uphold and hang onto for the benefit of the public at large, that is everybody, for the greatest good for the greatest number, which is what we are after, these islands. In other words, we are going to give them to many people who would not have them. However, there are certain circumstances where people have come before the committee and the committee has acted upon it. There is another bill here involving exactly the same thing, so I will explain it all at this time and not bore you again.

In this particular case these people are asking for an island to be transferred to them. In substituting the bill for the report of the committee we are taking away or dissipating the assets of the state. Now this particular island is nothing but a piece of rock, but it is still rock and the people in this particular instance, the town adjacent where it is not taxed, say: "If we can get possession of this property it will become taxable property and that will help us. Again, we have other situations among other municipalities and little towns in the

state, just the reverse: they do not want to get hold of taxable property; they want to get out of the circumstance where they are being taxed, and so they are asking to be relieved from that tax. The committee heard that and have acted accordingly.

So in this case I feel it is up to the proponents who now seek to move to have the bill amended. It is simply a matter of whether this legislature wishes to abide by the principles that past legislatures have established, or whether you wish to say no, in this particular instance we are going to deviate from our past methods and grant the request. When you vote you will vote for what you feel is for the best interests of the State.

Mr. DAVIS of Cumberland: Mr. President and members of the Senate: I would just like to offer a few words of explanation regarding this island.

As the Senator from Franklin, Senator Butler has stated, this is approximately twelve acres of rock, and as far as I know there is not a tree on it. It lies some two hundred yards off the end of Bailey's Island. There are no beaches, as I understand, on this island; in fact about the only way they can land is by building some kind of a landing stage.

These people are not asking the State to give them anything; they are willing to pay five hundred dollars for it, and it will then become taxable property in the town of Harpswell. That is what I am interested in, and I hope you will support me in my motion.

Mr. FARLEY of York: Mr. President and members of the Senate: As a member of the committee I wish to say that we have had a great many situations where this matter of islands came before our committee, and we have always gone along with the idea that they should still remain in the possession of the State. I am fully in sympathy with these people who came there on this bill, but I want to go along with the Senator from Franklin, Senator Butler.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Cumberland, Senator Davis, that the bill be sub-

stituted for the "Ought not to pass" report of the Committee.

As many as are in favor of the motion of the Senator from Cumberland, Senator Davis, that the bill be substituted for the "Ought not to pass" report of the Committee will say aye; those opposed no.

A viva voce vote being doubted, a division was had.

Eight having voted in the affirm-

ative and twenty in the negative, the motion did not prevail.

Thereupon, upon motion by Mr. Butler of Franklin, the "Ought not to pass" report of the committee was accepted.

Sent down for concurrence.

On motion by Mr. Butler of Franklin,

Adjourned until 12:00 noon tomorrow.